IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORIGINAL SIDE

WRIT PETITION NO.3006 OF 2004

M/s. Aum Exports Petitioner

vs.

1. Union of India & Anr. Respondents

Mr.Shyam Diwan with Ms.Purnima Singh for the petitioner.

Mr.S.S.Pakale for the respondents.

CORAM : R. M. LODHA &
J.P. DEVADHAR,JJ.

DATED : 21st December 2004

P.C.

Heard.

2. Rule.

3. Returnable forthwith.

4. The advocate on record for the respondents waives service.

5. By consent rule is treated on board for final hearing.

6. The writ petition deserves to be allowed on short ground. By notice dated 15th July 2004 the petitioner was called upon to appear before the Appellate Tribunal

for Foreign Exchange at Delhi on 18th August 2004. The petitioner through his advocate, sent the communication dated 18th August 2004 to the Registrar, Appellate Tribunal for fixing the matter at Mumbai. The appeal was posted before the Appellate Tribunal on 18th August 2004. The advocate Shri Sarvesh Chandra stated before the Appellate Tribunal that he was not representing the petitioner herein as he desired the matter to be heard at Mumbai. The Appellate Tribunal, however, observed that despite the notice, the petitioner failed to appear and, accordingly, passed the impugned order. In our considered view, an opportunity deserves to be granted to the petitioner to argue before the Appellate Tribunal on its application for waiver/dispensation of predeposit. We made it clear to the learned counsel for the petitioner that in the event of matter being reconsidered by the Appellate Tribunal, the Appellate Tribunal may pass an appropriate order after hearing the petitioner and there may not be even 50% waiver as has been done vide impugned. The learned counsel submitted that the petitioner desired reconsideration of the matter by the Tribunal.

7. We, accordingly, set aside the order dated 18th August 2004 and restore the appeal as well as the application for waiver/dispensation of predeposit to the file of the Appellate Tribunal for Foreign Exchange, New

Delhi. The petitioner is directed to appear before the said Tribunal on 17th January 2005. The Appellate Tribunal for Foreign Exchange shall hear the application for waiver of predeposit on that date or any other date that may be fixed by the Tribunal.

8. No costs.

(R.M. LODHA,J.)

(J.P. DEVADHAR,J.)